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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,310	12/01/2003	Satoshi Okano	KON-1837	2916
20311	7590	10/13/2005	EXAMINER	
LUCAS & MERCANTI, LLP 475 PARK AVENUE SOUTH 15TH FLOOR NEW YORK, NY 10016			LE, HOA VAN	
		ART UNIT	PAPER NUMBER	
			1752	

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/725,310	OKANO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Hoa V. Le	1752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 and 20 July 2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
  - 4a) Of the above claim(s) 3,4 and 10-12 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2 and 5-9 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 1-12 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 28 April 2005.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

This is in response to Papers filed on 11 and 20 July 2005.

I. Search Report filed on 28 April 2005 has been considered to the extent of the English language as provided. The English Abstract of DE 10013614 filed on 11 July 2005 has been considered.

II. The elected invention of claims 1, 2 and 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuykendall et al (6,534,253) considered in view of Kamada et al (5,534,395).

Kuykendall et al disclose, teach and suggest a (combined function) bleach-fixing composition having a pH solution of from 4 to 10 and comprising up to 3 mol/l and up to 100 mol% of a silver ion bleachable (oxidizer-able) agent being ferrous ( $Fe^{2+}$ ) salt of an aminopolycarboxylic acid and up to 5 mol/l of a thiosulfate as a fixing (silver halide solvent) agent and conventional additives. Please see the whole disclosure of each of the applied references, especially in Kuykendall et al at col.10:56-67, 4:50-52, 5:43-44, 7:23-25 and 39-64, 8:9-31, Table 1.

Kuykendall et al disclose, teach and suggest the conventionally bleach-fixing additives but do not specify imidazole containing compounds as that in claim 1 and the general formula 1 in claim 2. However, Kamada et al at col.3:6-15 and discloses, teaches and suggests the use of from 0.02 to 2 mol/l of imidazole containing compounds in a bleach-fixing composition for the

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advantage of a whiteness improvement in a rapid process using a reduced amount of a bleach-fixing replenisher Table 13 and col.69:23-27.

Since the above references are all related to silver halide color photographic materials and their desilvering processes using the combined function bleach-fixing compositions to obtain stable color images, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use or cite imidazole containing compound from Kamada et al for a reasonable expectation of obtaining a whiteness improvement in a rapid process using a reduced amount of a bleach-fixing replenisher as disclosed, taught, suggested and obtained in Kamada et al.

III. Applicant's arguments filed 11 July 2004 have been fully considered but they are not persuasive.

Applicant relies on the showings under Rule 132 for the patentability of the claims. They have been carefully considered in the next paragraph.

VI. Applicants' declaration under Rule 132 filed on 20 July 2002 has been fully considered but is insufficient to overcome the applied references of the record. The evidence is not commensurate in scope with the claims (Please see MPEP 716.02(d)).

(1) The elected claims are related to concentrated material or composition. However, there is no unusual or unexpected result (such a storage stability, coloration and/or precipitation) being provided for the record for the patentability of the claims.

(2) However, the results of the showings are on a process or method of use on an

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exposed silver halide color photo graphic material to be developed with a color developing step and bleach-fixing step. They would be given full value for a process or method of use claim such as the non-elected claim 12.

(3) In Table 10, Expt. Nos. 101,102, 107, 108, 113, 114 use ferrous ratio of 40 mol% is improper. Please see Kuykendall et al at column 3, lines 64-65 with more than 50 mol% of ferrous ions.

(4) The claims have not been limited to the use of imidazole and 1-methylimidazole from about 0.2 mol to 0.43 mol% as tested. In the absence of such limitations. It would like to see tested results at 0.01 to 2.5 mol/l (as disclosed on page 14 of the specification) on the imidazole of the general formula (1) with n being 3, R1 being propylene group having (i) hydroxyl-substituted alkyl group and (ii) alkenyl group substitution having more than 2 carbon atoms as broadly disclosed on pages 12 and 13 and in the claims. In the absence of convincing evidence no value is given for a concentration of a chemical ingredient that is not shown for consideration and concentrated bleach-fixing precursor replenisher as tested since applicant relies on the tested compounds and their amounts and replenishment to overcome the applied reference on the record. No consideration being resulted in no value is given.

For the above reasons the showings are incomplete and much broader than those in the claims or failing to provide unusual or unexpected result for the concentrate bleach-fixing precursor, per se, as claimed for the patentability of the claims. The results on using a bleach-fixing composition in a process or method of developing an exposed silver halide color photographic material through color developing step and bleach-fixing step using a bleach-fixing

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composition has and is given little value but has and is given value in a method or process of processing to obtain a color image such as the non-elected claim 12. The disclosure and claims are much broader than those in the claims. It would like to see tests result at the broad limitations. In the absence of convincing evidence no value is given since applicant relies on the tested chemical ingredients, their amount and replenishment for patentability of the of the claims.

V. The record shows that a bleach-fixing composition containing (a,1) more than about 50 mol% of ferric salt of polyaminopolycarboxylic acid bleaching agent, (a,2) more than 50 mol% of ferric salt of polyaminopolycarboxylic acid bleaching agent and the elected imidazole compound have not been considered or searched since more than about 50 mol% of ferric salt of polyaminopolycarboxylic acid bleaching agent is not in the claims or (b,3) converting or oxidizing to more than 50 mol% of ferrous salt of polyaminopolycarboxylic acid bleaching precursor to more than 50 mol% of ferric salt of polyaminopolycarboxylic acid bleaching agent as tested have not been considered or searched since the claims do not contain such embodiments. Applicant's claims are related to a composition containing more than 50 mol% of a ferrous salt of a polyaminopolycarboxylic acid bleaching precursor. But applicant tests on a composition containing more than 50 mol% of an oxidized bleaching precursor or bleaching agent, ferric salt of a polyaminopolycarboxylic acid, instead.

VI. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

VII. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa V. Le whose telephone number is 571-272-1332. The examiner can normally be reached from 6:30 AM to 4:30 PM on Monday through Thursday and about the same time of most Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on 571-272-1526.

Applicants may file a paper by (1) fax with a central facsimile receiving number 703-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Hoa V. Le  
Primary Examiner  
Art Unit 1752

HVL  
15 September 2005

HOA VAN LE  
PRIMARY EXAMINER  
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